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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,779	07/10/2003	Kenneth A. Scott	269.020	2000
5073	7590	12/22/2006	EXAMINER	
BAKER BOTTS L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			THOMASSON, MEAGAN J	
			ART UNIT	PAPER NUMBER
			3714	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/22/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

FJP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/616,779	SCOTT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Meagan Thomasson	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/12/04, 2/23/05, 10/24/06</u>                                | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the virtual assistant (as recited in claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 18 is objected to because of the following informalities: the language of claim 18 is confusing. Specifically, the claim recites the step of "displaying a plurality of options for placing a pari-mutuel wager; and receiving a pari-mutuel from entered by the player". The examiner interpreted the limitation as follows: "receiving a pari-mutuel wager placed by the player". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (US 5,830,068).** Brenner discloses an interactive wagering system and apparatus, wherein a gaming machine comprises a display screen to provide a graphic display of a plurality of pari-mutuel gaming options to a player; and a selection device operable by the player to select at least one of the pari-mutuel gaming options displayed on the screen, the selection device operable by the player to input a wager corresponding to the selected pari-mutuel gaming option (abstract, column 2, lines 30-35). The gaming apparatus comprises a tuner/receiver and is operable to receive a live broadcast of a track selected by the player, as well as a memory for recording the live

broadcast signal and a processor for recalling the signal from the memory storage (column 17, line 47- column 18, line 15).

The method of operating the apparatus disclosed by Brenner comprises the steps of providing a pari-mutuel gaming machine, displaying a plurality of pari-mutuel game options to a player; and placing a pari-mutuel wager on at least one of the plurality of pari-mutuel game options displayed to the player. As shown in Figure 9, the gaming device displays a list of track selections, wherein a player then makes a selection from the list. Then, as shown in figures 10-15, a player selects from a variety of game options available at the selected track, including race number, bet type, and horse number, on which they would like to place a wager. The wager placed by a player is recorded and compared to an outcome. If a player chooses, they may return to the track selections display and place a second wager after making their first selections and placing a first wager (Fig. 16 "Main Menu" button; Fig. 31-32, step 514). Alternative game options and the rules associated with each are displayed to the player (column 13, lines 39-67). Brenner discloses staggering the start times of each pari-mutuel events at each pari-mutuel racing venue (Fig. 10).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 5,830,068) in view of Gorbet et al. (US 6,542,163).** Brenner discloses a pari-mutuel wagering system as described above, wherein a gaming device displays available tracks, or venues, and game options that a player may choose from. The player may then place a wager, and watch the live race broadcast from a display located in said gaming device. Brenner lacks in disclosing a virtual assistant to assist the player in placing the pari-mutuel wager. Gorbet discloses the use of a virtual assistant to provide the user of a computer application program with relevant tips. The virtual assistant may take the form of an animated character (Fig. 1), and offers a user helpful suggestions for topics relating to a computer application program. One of ordinary skill in the art would have been motivated to combine the teachings of Brenner and Gorbet because Brenner discloses a help screen menu option that allows the system to display help information, including explanations on how to use the terminal, how to place certain types of wagers, and handicapping information (Fig. 27; column 16, line 53 – column 17, lines 3). In addition, Brenner discloses visually displaying information such as current time and the time remaining to post time on the menu

screen where it is animated to gain player attention (column 10, line 62 - column 11, line 3). Thus, it would have been obvious to provide a virtual assistant as disclosed by Gorbet to convey to a user the information disclosed by Brenner in order to increase the level of player interaction and the gaming machine's overall entertainment value.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art relating to pari-mutuel wagering systems include Mir et al. (US 6,450,887) and Brenner et al. (US 5,830,068).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson  
December 15, 2006

 12/18/06  
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ADVISORY PATENT EXAMINEE  
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